

national narcotics control shall not be used for the eradication of marijuana through the use of the herbicide paraquat, unless the paraquat is used in conjunction with another substance or agent which will effectively warn potential users of marijuana that paraquat has been used on it." . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I make a point of order against the amendment because it is not a proper limitation on an appropriation bill but is legislation on an appropriation bill. It requires additional duties of some person or persons in the Government, not only to determine whether or not the herbicide named is being used but to go beyond that and also determine whether it is being used in conjunction with another substance as a warning, and so on. None of this is authorized by law. It is legislation on an appropriation bill. . . .

MR. WAXMAN: Mr. Chairman, the authorization bill has similar language that would provide for this kind of restriction in the use of the money and I would consider it an essential point of what we are trying to accomplish in the appropriation bill. . . .

Mr. Chairman, the authorization bill has similar language that would provide for this kind of restriction of the use of money I would consider it an essential part of what we are trying to accomplish in the appropriations bill.

THE CHAIRMAN:<sup>(1)</sup> The Chair is ready to rule.

The Chair will inform the gentleman from California (Mr. Waxman) that the authorization bill is not as yet law.

1. Abraham Kazen, Jr. (Tex.).

Were it law, the gentleman's amendment might be authorized and in order, but at this point the Chair will, very respectfully, sustain the point of order.

## § 24. Construing Existing Law; Repealing Existing Law

Generally, language in an appropriation bill proposing to repeal existing law is legislation and not in order. Similarly, an amendment in the form of a limitation but construing or interpreting existing law is legislation and not in order on an appropriation bill.

It is important to note, however, that some amendments have been permitted which resulted in an application or use of funds different from that contemplated in existing law. This may occur where the language of the amendment is drafted strictly as a negative limitation or restriction on the use of funds, and does not explicitly change a formula for distribution or allocation of funds that is prescribed in existing law.<sup>(2)</sup>

2. For discussion of criteria applicable in determining whether a provision comprises language of "negative limitation," see § 64, *infra*.

Also of interest is a ruling on Mar. 4, 1954, discussed in § 74.3, *infra*. In

**General Rule****§ 24.1 Language in an appropriation bill proposing to repeal existing law is legislation and not in order.**

On Jan. 31, 1936,<sup>(3)</sup> during consideration in the Committee of the Whole of the Interior Department appropriation bill (H.R. 10630), a point of order was raised against the following amendment:

MR. [ROY E.] AYERS [of Montana]: Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. Ayers: Page 48, line 14, insert a paragraph, as follows:

"That portion of section 1 of the act approved August 12, 1935 (49 Stat. 571-584), known as the Second Deficiency Appropriation Act, fiscal year 1935, providing \$806,000 for construction, enlargement, or improvement of public-school buildings

that instance the Chair ruled that, where an amendment to an appropriation bill provided that no part of any appropriation in the bill be used for compensation of any officer or employee of a designated bureau who for the purposes of the Hatch Act, "shall not be included within the construction of the term "officer" or "employee," the language was in order as a limitation. The determinations of employment status were, it should be noted, already required by law.

3. 80 CONG. REC. 1308, 74th Cong. 2d Sess.

as authorized by and in conformity with numerous acts of the Seventy-fourth Congress, approved June 7, 1935, fiscal year 1936, is hereby amended so as to repeal the provisions for recoupment by the United States, on account of expenditures thereunder, and the amounts appropriated for assistance of the said public-school districts are hereby declared to be an outright grant to the various public-school districts mentioned therein."

MR. [EDWARD T.] TAYLOR [of Colorado]: Mr. Chairman, I make a point of order against the amendment on two grounds; first, it is clearly legislation and has no business in this bill; and, secondly, it is not germane, because we have considered and passed the provision in the bill where it should have been offered.

THE CHAIRMAN:<sup>(4)</sup> The Chair is ready to rule. The amendment offered by the gentleman from Montana [Mr. Ayers] proposes to repeal legislation; therefore the point of order is sustained.

**Limit on Number of Housing Units****§ 24.2 To an appropriation bill an amendment repealing a provision of existing law (contained in a prior appropriation bill) which had placed a limit upon the number of dwelling units which the Public Housing Administration could authorize to be constructed in certain years was held to be legislation.**

4. Robert L. Doughton (N.C.).

On Mar. 30, 1954,<sup>(5)</sup> during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 8583), a point of order was raised against the following amendment:

Amendment offered by Mr. [Abraham J.] Multer [of Illinois]: On page 29, at line 12, insert a new section:

"That part of Public Law 176 of the 83d Congress (an appropriation measure), reading: *Provided further*, That notwithstanding the provisions of the United States Housing Act of 1937, as amended, the Public Housing Administration shall not, with respect to projects initiated after March 1, 1949, (1) authorize during the fiscal year 1954 the commencement of construction of in excess of 20,000 dwelling units or (2) after the date of approval of this act, enter into any new agreements, contracts, or other arrangements, preliminary or otherwise, which will ultimately bind the Public Housing Administration during fiscal year 1954 or for any future years with respect to loans or annual contributions for any additional dwelling units or projects unless hereafter authorized by the Congress to do so, and during the fiscal year 1954 the Housing and Home Finance administrator shall make a complete analysis and study of the low-rent public housing program and, on or before February 1, 1954, shall transmit to the Appropriations Committees of the House and Senate his recommendations with respect to such low-rent public program,' is hereby repealed."

MR. [JOHN] PHILLIPS [of California]: Mr. Chairman, a point of order.

5. 100 CONG. REC. 4128, 83d Cong. 2d Sess.

THE CHAIRMAN:<sup>(6)</sup> The gentleman will state it.

MR. PHILLIPS: Mr. Chairman, I make a point of order against the amendment, that the Chair has already ruled against similar amendments twice on the ground that it is legislation on an appropriation bill. I make the same point now. It changes existing law, Mr. Chairman. . . .

THE CHAIRMAN: The Chair is prepared to rule. The language of the amendment is obnoxious to the rule prohibiting legislation on an appropriation bill. It seeks to repeal existing legislation, and therefore the amendment is itself legislation.

The Chair sustains the point of order.

### *Ending Future Authorization*

**§ 24.3 In an appropriation bill, where an appropriation is authorized by a law which would remain effective in the future, words designating an appropriation as "a final appropriation" for "completing" acquisition of certain land under authority of such law were held to constitute legislation.**

On Mar. 30, 1954,<sup>(7)</sup> during consideration in the Committee of the Whole of the independent offices appropriation bill (H.R. 8538), a point of order was raised against the following provision:

The Clerk read as follows:

6. Louis E. Graham (Pa.).

7. 100 CONG. REC. 4128, 83d Cong. 2d Sess.

Land acquisition, National Capital park, parkway, and playground system: As a final appropriation under authority of the act of May 29, 1930 (46 Stat. 482), as amended, for necessary expenses for the National Capital Planning Commission for completing acquisition of land for the park, parkway, and playground system of the National Capital, to remain available until expended, \$545,000, of which (a) \$135,000 shall be available for the purposes of section 1 (a) of said act of May 29, 1930, (b) \$126,000 shall be available for the purposes of section 1(b) thereof, and (c) \$284,000 shall be available for the purposes of section 4 thereof: *Provided*, That not exceeding \$26,450 of the funds available for land acquisition purposes shall be used during the current fiscal year for necessary expenses of the Commission (other than payments for land) in connection with land acquisition.

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, a point of order.

THE CHAIRMAN:<sup>(8)</sup> The gentleman will state it.

MR. SMITH of Virginia: Mr. Chairman, I desire to interpose a point of order to the language contained in line 17 on page 35: "as a final appropriation"; and on line 20 against the word "completing." . . .

MR. [JOHN] PHILLIPS [of California]: I will concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order.

### ***Rescission of Contract Authority***

#### **§ 24.4 Language in an appropriation bill rescinding a**

8. Louis E. Graham (Pa.).

#### **contract authorization carried in a prior appropriation act is legislation and not in order.**

On May 1, 1951,<sup>(9)</sup> during consideration in the Committee of the Whole of the Department of the Interior appropriation bill (H.R. 3790), a point of order was raised against the following provision:

For construction and improvement of facilities under the jurisdiction of the Bureau of Mines, to remain available until expended, \$1,250,000: *Provided*, That the unused balance of the contract authorization of \$15,000,000 granted in the Interior Department Appropriation Act, 1946, under the head "Synthetic liquid fuels," is hereby rescinded.

MR. [CLEVELAND M.] BAILEY [of West Virginia]: Mr. Chairman, I make a point of order.

THE CHAIRMAN:<sup>(10)</sup> The gentleman will state the point of order.

MR. BAILEY: Mr. Chairman, I make the point of order against the language contained in line 19, page 25, beginning with the word "*Provided*," and continuing through lines 19, 20, 21, and 22, inclusive, on the ground that it is legislation on an appropriation bill.

MR. [MICHAEL J.] KIRWAN [of Ohio]: Mr. Chairman, we concede the point of order.

THE CHAIRMAN: The Chair sustains the point of order.

*Parliamentarian's Note:* Rescissions or deferrals of budget au-

9. 97 CONG. REC. 4662, 82d Cong. 1st Sess.

10. Wilbur D. Mills (Ark.).

thority contained in general appropriation bills of previously appropriated funds remain legislative despite jurisdiction conferred upon the Appropriations Committee in Rule X to report separate rescission bills under the Impoundment Control Act of 1974. The rules change in 1974, which gave the Appropriations Committee jurisdiction over rescissions of *appropriations* would not affect cases like the 1951 ruling above, involving rescission of a contract authorization.

### ***Waiver of Previous Limitation***

**§ 24.5 A limitation in an appropriation bill having become law, a provision in a subsequent appropriation bill for that fiscal year seeking to waive this limitation was conceded to be legislation and was ruled out on a point of order.**

On Sept. 15, 1961,<sup>(11)</sup> during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 9169), a point of order was raised against the following provision:

The Clerk read as follows:

11. 107 CONG. REC. 19728, 87th Cong. 1st Sess.

EXECUTIVE OFFICE OF THE  
PRESIDENT

*Council of Economic Advisers*

Salaries and Expenses

For an additional amount for "Salaries and expenses," \$170,000: *Provided*, That the appropriations under this head shall be available during the current fiscal year without regard to the limitation on salaries appearing under this head to the General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, I make a point of order against the language on page 8, lines 14 to 22 inclusive, on the ground that it is legislation on an appropriation bill.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I make the further point of order against the language that it, in effect, amends previous law by waiving limitations. . . .

MR. [ALBERT] THOMAS [of Texas]: I hope my colleagues will not force us to offer an amendment. But we will accept it, if you insist on it.

THE CHAIRMAN:<sup>(12)</sup> The Chair is ready to rule. The gentleman from Texas concedes the point of order.

The point of order is sustained.

### ***Repealing Restriction in Prior Appropriation Law***

**§ 24.6 An amendment to a supplemental appropriation bill, proposing to repeal a provision of a prior appropriation act and having the effect of**

12. Oren Harris (Ark.).

**changing restrictions on the use of funds under that prior act, was held to be legislation and was ruled out as in violation of Rule XXI clause 2.**

On Dec. 2, 1971,<sup>(13)</sup> during consideration in the Committee of the Whole of a supplemental appropriation bill (H.R. 11955), a point of order was raised against the following amendment:

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Steed of Oklahoma.

On Page 15 after line 17 add the following sentence: The first proviso in the second paragraph of title I of Public Law 92-48 is amended by striking the first proviso therein.

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:<sup>(14)</sup> The gentleman will state his point of order.

MR. SMITH of Iowa: My point is that the amendment refers to a provision that was in an appropriations act but is now a public law. Therefore, the gentleman is trying to amend a public law, and that would be legislation upon an appropriation bill.

THE CHAIRMAN: Does the gentleman from Oklahoma wish to be heard on the point of order?

MR. STEED: Yes, Mr. Chairman. The amendment deals with an office which is included in the bill and involves funds that are under the jurisdiction of the provisions of this bill. It is a limitation and deals with a limitation.

MR. [JAMES G.] O'HARA [of Michigan]: Mr. Chairman, I ask to be heard on the point of order. The provisions which the gentleman from Oklahoma is now offering to strike was carried in the Education Appropriation Act. An effort was made to strike the provision out of the Education Appropriation Act on the ground it was legislation on an appropriation. That point of order was overruled. I do not see how an amendment offering to strike that provision from the Education Appropriation bill could possibly be legislation.

THE CHAIRMAN: The Chair is ready to rule. . . .

Clearly, the amendment offered by the gentleman from Oklahoma would repeal a provision in existing law and would thereby constitute a change in the restrictions on the availability of funds imposed by that law. The Chair holds that the amendment constitutes legislation on an appropriation bill in violation of clause 2, rule XXI, and sustains the point of order.

### ***Repealing Expenditure Limit on Salaries and Expenses for Current Year***

**§ 24.7 A provision in an appropriation bill repealing a legislative provision in a prior appropriation law that certain expenditures during the fiscal year 1939 by the Na-**

13. 117 CONG. REC. 44316, 92d Cong. 1st Sess.

14. Jack B. Brooks (Tex.).

**tional Bituminous Coal Commission “shall not exceed an amount equal to the aggregate receipts covered into the Treasury under the provisions of” a specified statute was held to be legislation on an appropriation bill and not in order.**

On Mar. 22, 1939,<sup>(15)</sup> during consideration in the Committee of the Whole of a deficiency appropriation bill (H.R. 5219), a point of order was raised against the following provision:

The Clerk read as follows:

The paragraph in the Second Deficiency Appropriation Act, fiscal year 1938, under the caption “National Bituminous Coal Commission,” is hereby amended by striking out the following proviso: “*Provided*, That expenditures during the fiscal year 1939 under this head and under the head ‘Salaries and expenses, office of the Consumers’ Counsel, National Bituminous Coal Commission,’ shall not exceed an amount equal to the aggregate receipts covered into the Treasury under the provisions of section 3 of the Bituminous Coal Act of 1937.”

MR. [J. WILLIAM] DITTER [of Pennsylvania]: Mr. Chairman, I make the point of order against the paragraph that it is legislation on an appropriation bill.

MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Chairman, I concede the point of order.

15. 84 CONG. REC. 3123, 76th Cong. 1st Sess.

THE CHAIRMAN:<sup>(16)</sup> The point of order of the gentleman from Pennsylvania is conceded by the gentleman from Virginia, and is therefore sustained.

***Sums Appropriated “Without Regard to” Specified Statutes***

**§ 24.8 In an appropriation for purchases related to the reindeer industry in Alaska, a provision appropriating sums for the purchase, in such manner as the Secretary of the Interior shall deem advisable and without regard to sections 3709 and 3744 of the Revised Statutes, of specified items, was conceded to be legislation and not in order.**

On Mar. 15, 1939,<sup>(17)</sup> the Committee of the Whole was considering H.R. 4852, an Interior Department appropriation. The Clerk read as follows, and proceedings ensued as indicated below:

Reindeer industry, Alaska: For the purchase, in such manner as the Secretary of the Interior shall deem advisable and without regard to sections 3709 and 3744 of the Revised Statutes, reindeer, abattoirs, cold-storage plants . . . and communication and other equipment, owned by nonnatives in Alaska, as authorized by the act of

16. William P. Cole, Jr. (Md.).

17. 84 CONG. REC. 2789, 2790, 76th Cong. 1st Sess.

September 1, 1937 (50 Stat. 900), \$820,000 . . . *Provided*, That under this appropriation not exceeding an average of \$4 per head shall be paid for reindeer purchased from nonnative owners: *Provided further*, That the foregoing limitation shall not apply to the purchase of reindeer located on Nunivak Island.

MR. [JOHN C.] SCHAFER of Wisconsin: Mr. Chairman, I make the point of order against the paragraph on the ground that it is legislation on an appropriation bill unauthorized by law. In fact, the language clearly indicates that it repeals the specific provisions of existing law as incorporated in sections 3709 and 3744 of the Revised Statutes.

THE CHAIRMAN:<sup>(18)</sup> Does the gentleman from Oklahoma desire to be heard?

MR. [JED] JOHNSON of Oklahoma: No; I concede the point of order.

THE CHAIRMAN: The point of order is sustained.

## § 25. Construction or Definition of Terms of Bill or Law

### *Descriptive Term*

#### § 25.1 An amendment proposing to insert the words "known as 'Rankin Dam'" following an appropriation for Pickwick Landing Dam was held to be legislation and not

#### **in order on an appropriation bill.**

On May 8, 1936,<sup>(19)</sup> during consideration in the Committee of the Whole of a deficiency appropriation bill (H.R. 12624), a point of order was raised against the following amendment:

MR. [AARON L.] FORD of Mississippi: Mr. Chairman, I offer another amendment.

The Clerk read as follows:

Page 19, line 2, after the words "Pickwick Landing Dam", insert the following: "(known as 'Rankin Dam')."

MR. [JOHN J.] MCSWAIN [of South Carolina]: Mr. Chairman, I make a point of order on the amendment that it is legislation on an appropriation bill. It is evidently an attempt to change the name and call it "Rankin Dam." It is in the teeth of legislation that has been attempted time and time again. There are bills before the Committee on Military Affairs to change the name of this dam to "Rankin Dam."

MR. [HAROLD] KNUTSON [of Minnesota]: I should like to ask the gentleman if it is not customary to wait until the man is dead before they name a dam for him?

MR. MCSWAIN: Yes; it is

THE CHAIRMAN:<sup>(20)</sup> Does the gentleman from Mississippi wish to be heard on the point of order?

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, if the Chair will permit.

19. 80 CONG. REC. 6965-67, 74th Cong. 2d Sess.

20. John W. McCormack (Mass.).

18. Frank H. Buck (Calif.).